

Introduced by Senator Corbett

February 24, 2012

An act to amend Sections 4514, 4903, and 5328.15 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1377, as introduced, Corbett. Protection and advocacy agencies.

Existing law prescribes, in accordance with federal law, the powers of the protection and advocacy agency, which is a private, nonprofit corporation charged with protecting and advocating for the rights of persons with developmental disabilities and mental disorders. Under existing law, a protection and advocacy agency's powers include the authority to investigate any incident of abuse or neglect of persons with developmental disabilities or persons with mental illness if the complaints are reported to the protection and advocacy agency or if probable cause exists to believe that abuse or neglect has occurred. This authority includes the authorization to examine all relevant records and interview any facility or program service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect. Existing law requires the agency to have access to the records of specified people with disabilities, including reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death occurring at the program, facility, or service.

This bill would provide that the authority to access these records includes access to an unredacted citation, licensing, or survey report prepared by a department responsible for issuing a license or certificate to a program, facility, or service serving an individual with a disability.

Existing law requires the confidentiality of all information and records obtained in the course of providing intake, assessment, and services

pursuant to specified provisions of existing law to persons with developmental disabilities and to voluntary or involuntary recipients of services under the existing Lanterman-Petris Short Act or within a prescribed state or county hospital.

This bill would authorize disclosure of the above-described confidential information to a protection and advocacy agency to the extent that the information is incorporated within a citation report, plan of correction, unredacted survey report, or statement of deficiency prepared by authorized licensing personnel or authorized representatives of the State Department of Health Care Services or the State Department of Social Services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4514 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 4514. All information and records obtained in the course of
- 4 providing intake, assessment, and services under Division 4.1
- 5 (commencing with Section 4400), Division 4.5 (commencing with
- 6 Section 4500), Division 6 (commencing with Section 6000), or
- 7 Division 7 (commencing with Section 7100) to persons with
- 8 developmental disabilities shall be confidential. Information and
- 9 records obtained in the course of providing similar services to
- 10 either voluntary or involuntary recipients prior to 1969 shall also
- 11 be confidential. Information and records shall be disclosed only
- 12 in any of the following cases:
- 13 (a) In communications between qualified professional persons,
- 14 whether employed by a regional center or state developmental
- 15 center, or not, in the provision of intake, assessment, and services
- 16 or appropriate referrals. The consent of the person with a
- 17 developmental disability, or his or her guardian or conservator,
- 18 shall be obtained before information or records may be disclosed
- 19 by regional center or state developmental center personnel to a
- 20 professional not employed by the regional center or state
- 21 developmental center, or a program not vendored by a regional
- 22 center or state developmental center.
- 23 (b) When the person with a developmental disability, who has
- 24 the capacity to give informed consent, designates individuals to

1 whom information or records may be released, except that nothing
2 in this chapter shall be construed to compel a physician and
3 surgeon, psychologist, social worker, marriage and family therapist,
4 professional clinical counselor, nurse, attorney, or other
5 professional to reveal information that has been given to him or
6 her in confidence by a family member of the person unless a valid
7 release has been executed by that family member.

8 (c) To the extent necessary for a claim, or for a claim or
9 application to be made on behalf of a person with a developmental
10 disability for aid, insurance, government benefit, or medical
11 assistance to which he or she may be entitled.

12 (d) If the person with a developmental disability is a minor,
13 dependent ward, or conservatee, and his or her parent, guardian,
14 conservator, limited conservator with access to confidential records,
15 or authorized representative, designates, in writing, persons to
16 whom records or information may be disclosed, except that nothing
17 in this chapter shall be construed to compel a physician and
18 surgeon, psychologist, social worker, marriage and family therapist,
19 professional clinical counselor, nurse, attorney, or other
20 professional to reveal information that has been given to him or
21 her in confidence by a family member of the person unless a valid
22 release has been executed by that family member.

23 (e) For research, provided that the Director of Developmental
24 Services designates by regulation rules for the conduct of research
25 and requires the research to be first reviewed by the appropriate
26 institutional review board or boards. These rules shall include, but
27 need not be limited to, the requirement that all researchers shall
28 sign an oath of confidentiality as follows:

29 “ _____
30 _____
31 Date

32
33 As a condition of doing research concerning persons with
34 developmental disabilities who have received services from ____
35 (fill in the facility, agency or person), I, ____, agree to obtain the
36 prior informed consent of persons who have received services to
37 the maximum degree possible as determined by the appropriate
38 institutional review board or boards for protection of human
39 subjects reviewing my research, or the person’s parent, guardian,
40 or conservator, and I further agree not to divulge any information

1 obtained in the course of the research to unauthorized persons, and
2 not to publish or otherwise make public any information regarding
3 persons who have received services so those persons who received
4 services are identifiable.

5 I recognize that the unauthorized release of confidential
6 information may make me subject to a civil action under provisions
7 of the Welfare and Institutions Code.

8
9 _____”
10 Signed
11

12 (f) To the courts, as necessary to the administration of justice.

13 (g) To governmental law enforcement agencies as needed for
14 the protection of federal and state elective constitutional officers
15 and their families.

16 (h) To the Senate Committee on Rules or the Assembly
17 Committee on Rules for the purposes of legislative investigation
18 authorized by the committee.

19 (i) To the courts and designated parties as part of a regional
20 center report or assessment in compliance with a statutory or
21 regulatory requirement, including, but not limited to, Section
22 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the
23 Penal Code, *and* Section 6502 of the Welfare and Institutions Code;
24 ~~and Section 56557 of Title 17 of the California Code of~~
25 ~~Regulations.~~

26 (j) To the attorney for the person with a developmental disability
27 in any and all proceedings upon presentation of a release of
28 information signed by the person, except that when the person
29 lacks the capacity to give informed consent, the regional center or
30 state developmental center director or designee, upon satisfying
31 himself or herself of the identity of the attorney, and of the fact
32 that the attorney represents the person, shall release all information
33 and records relating to the person except that nothing in this article
34 shall be construed to compel a physician and surgeon, psychologist,
35 social worker, marriage and family therapist, professional clinical
36 counselor, nurse, attorney, or other professional to reveal
37 information that has been given to him or her in confidence by a
38 family member of the person unless a valid release has been
39 executed by that family member.

1 (k) Upon written consent by a person with a developmental
2 disability previously or presently receiving services from a regional
3 center or state developmental center, the director of the regional
4 center or state developmental center, or his or her designee, may
5 release any information, except information that has been given
6 in confidence by members of the family of the person with
7 developmental disabilities, requested by a probation officer charged
8 with the evaluation of the person after his or her conviction of a
9 crime if the regional center or state developmental center director
10 or designee determines that the information is relevant to the
11 evaluation. The consent shall only be operative until sentence is
12 passed on the crime of which the person was convicted. The
13 confidential information released pursuant to this subdivision shall
14 be transmitted to the court separately from the probation report
15 and shall not be placed in the probation report. The confidential
16 information shall remain confidential except for purposes of
17 sentencing. After sentencing, the confidential information shall be
18 sealed.

19 (l) Between persons who are trained and qualified to serve on
20 “multidisciplinary personnel” teams pursuant to subdivision (d)
21 of Section 18951. The information and records sought to be
22 disclosed shall be relevant to the prevention, identification,
23 management, or treatment of an abused child and his or her parents
24 pursuant to Chapter 11 (commencing with Section 18950) of Part
25 6 of Division 9.

26 (m) When a person with a developmental disability dies from
27 any cause, natural or otherwise, while hospitalized in a state
28 developmental center, the State Department of Developmental
29 Services, the physician and surgeon in charge of the client, or the
30 professional in charge of the facility or his or her designee, shall
31 release information and records to the coroner. The State
32 Department of Developmental Services, the physician and surgeon
33 in charge of the client, or the professional in charge of the facility
34 or his or her designee, shall not release any notes, summaries,
35 transcripts, tapes, or records of conversations between the resident
36 and health professional personnel of the hospital relating to the
37 personal life of the resident that is not related to the diagnosis and
38 treatment of the resident’s physical condition. Any information
39 released to the coroner pursuant to this section shall remain

1 confidential and shall be sealed and shall not be made part of the
2 public record.

3 (n) To authorized licensing personnel who are employed by, or
4 who are authorized representatives of, the State Department of
5 *Public Health Services*, and who are licensed or registered health
6 professionals, and to authorized legal staff or special investigators
7 who are peace officers who are employed by, or who are authorized
8 representatives of, the State Department of Social Services, as
9 necessary to the performance of their duties to inspect, license,
10 and investigate health facilities and community care facilities, and
11 to ensure that the standards of care and services provided in these
12 facilities are adequate and appropriate and to ascertain compliance
13 with the rules and regulations to which the facility is subject. The
14 confidential information shall remain confidential except for
15 purposes of inspection, licensing, or investigation pursuant to
16 Chapter 2 (commencing with Section 1250) and Chapter 3
17 (commencing with Section 1500) of Division 2 of the Health and
18 Safety Code, or a criminal, civil, or administrative proceeding in
19 relation thereto. The confidential information may be used by the
20 State Department of *Public Health Services* or the State Department
21 of Social Services in a criminal, civil, or administrative proceeding.
22 The confidential information shall be available only to the judge
23 or hearing officer and to the parties to the case. Names which are
24 confidential shall be listed in attachments separate to the general
25 pleadings. The confidential information shall be sealed after the
26 conclusion of the criminal, civil, or administrative hearings, and
27 shall not subsequently be released except in accordance with this
28 subdivision. If the confidential information does not result in a
29 criminal, civil, or administrative proceeding, it shall be sealed after
30 the State Department of *Public Health Services* or the State
31 Department of Social Services decides that no further action will
32 be taken in the matter of suspected licensing violations. Except as
33 otherwise provided in this subdivision, confidential information
34 in the possession of the State Department of *Public Health Services*
35 or the State Department of Social Services shall not contain the
36 name of the person with a developmental disability.

37 (o) To any board which licenses and certifies professionals in
38 the fields of mental health and developmental disabilities pursuant
39 to state law, when the Director of Developmental Services has
40 reasonable cause to believe that there has occurred a violation of

1 any provision of law subject to the jurisdiction of a board and the
2 records are relevant to the violation. The information shall be
3 sealed after a decision is reached in the matter of the suspected
4 violation, and shall not subsequently be released except in
5 accordance with this subdivision. Confidential information in the
6 possession of the board shall not contain the name of the person
7 with a developmental disability.

8 (p) To governmental law enforcement agencies by the director
9 of a regional center or state developmental center, or his or her
10 designee, when (1) the person with a developmental disability has
11 been reported lost or missing or (2) there is probable cause to
12 believe that a person with a developmental disability has
13 committed, or has been the victim of, murder, manslaughter,
14 mayhem, aggravated mayhem, kidnapping, robbery, carjacking,
15 assault with the intent to commit a felony, arson, extortion, rape,
16 forcible sodomy, forcible oral copulation, assault or battery, or
17 unlawful possession of a weapon, as provided in any provision
18 listed in Section 16590 of the Penal Code.

19 This subdivision shall be limited solely to information directly
20 relating to the factual circumstances of the commission of the
21 enumerated offenses and shall not include any information relating
22 to the mental state of the patient or the circumstances of his or her
23 treatment unless relevant to the crime involved.

24 This subdivision shall not be construed as an exception to, or in
25 any other way affecting, the provisions of Article 7 (commencing
26 with Section 1010) of Chapter 4 of Division 8 of the Evidence
27 Code, or Chapter 11 (commencing with Section 15600) and
28 Chapter 13 (commencing with Section 15750) of Part 3 of Division
29 9.

30 (q) To the Division of Juvenile Facilities and Department of
31 Corrections and Rehabilitation or any component thereof, as
32 necessary to the administration of justice.

33 (r) To an agency mandated to investigate a report of abuse filed
34 pursuant to either Section 11164 of the Penal Code or Section
35 15630 of the Welfare and Institutions Code for the purposes of
36 either a mandated or voluntary report or when those agencies
37 request information in the course of conducting their investigation.

38 (s) When a person with developmental disabilities, or the parent,
39 guardian, or conservator of a person with developmental disabilities
40 who lacks capacity to consent, fails to grant or deny a request by

1 a regional center or state developmental center to release
2 information or records relating to the person with developmental
3 disabilities within a reasonable period of time, the director of the
4 regional or developmental center, or his or her designee, may
5 release information or records on behalf of that person provided
6 both of the following conditions are met:

7 (1) Release of the information or records is deemed necessary
8 to protect the person's health, safety, or welfare.

9 (2) The person, or the person's parent, guardian, or conservator,
10 has been advised annually in writing of the policy of the regional
11 center or state developmental center for release of confidential
12 client information or records when the person with developmental
13 disabilities, or the person's parent, guardian, or conservator, fails
14 to respond to a request for release of the information or records
15 within a reasonable period of time. A statement of policy contained
16 in the client's individual program plan shall be deemed to comply
17 with the notice requirement of this paragraph.

18 (t) (1) When an employee is served with a notice of adverse
19 action, as defined in Section 19570 of the Government Code, the
20 following information and records may be released:

21 (A) All information and records that the appointing authority
22 relied upon in issuing the notice of adverse action.

23 (B) All other information and records that are relevant to the
24 adverse action, or that would constitute relevant evidence as
25 defined in Section 210 of the Evidence Code.

26 (C) The information described in subparagraphs (A) and (B)
27 may be released only if both of the following conditions are met:

28 (i) The appointing authority has provided written notice to the
29 consumer and the consumer's legal representative or, if the
30 consumer has no legal representative or if the legal representative
31 is a state agency, to the clients' rights advocate, and the consumer,
32 the consumer's legal representative, or the clients' rights advocate
33 has not objected in writing to the appointing authority within five
34 business days of receipt of the notice, or the appointing authority,
35 upon review of the objection has determined that the circumstances
36 on which the adverse action is based are egregious or threaten the
37 health, safety, or life of the consumer or other consumers and
38 without the information the adverse action could not be taken.

1 (ii) The appointing authority, the person against whom the
2 adverse action has been taken, and the person's representative, if
3 any, have entered into a stipulation that does all of the following:

4 (I) Prohibits the parties from disclosing or using the information
5 or records for any purpose other than the proceedings for which
6 the information or records were requested or provided.

7 (II) Requires the employee and the employee's legal
8 representative to return to the appointing authority all records
9 provided to them under this subdivision, including, but not limited
10 to, all records and documents or copies thereof that are no longer
11 in the possession of the employee or the employee's legal
12 representative because they were from any source containing
13 confidential information protected by this section, and all copies
14 of those records and documents, within 10 days of the date that
15 the adverse action becomes final except for the actual records and
16 documents submitted to the administrative tribunal as a component
17 of an appeal from the adverse action.

18 (III) Requires the parties to submit the stipulation to the
19 administrative tribunal with jurisdiction over the adverse action
20 at the earliest possible opportunity.

21 (2) For the purposes of this subdivision, the State Personnel
22 Board may, prior to any appeal from adverse action being filed
23 with it, issue a protective order, upon application by the appointing
24 authority, for the limited purpose of prohibiting the parties from
25 disclosing or using information or records for any purpose other
26 than the proceeding for which the information or records were
27 requested or provided, and to require the employee or the
28 employee's legal representative to return to the appointing authority
29 all records provided to them under this subdivision, including, but
30 not limited to, all records and documents from any source
31 containing confidential information protected by this section, and
32 all copies of those records and documents, within 10 days of the
33 date that the adverse action becomes final, except for the actual
34 records and documents that are no longer in the possession of the
35 employee or the employee's legal representatives because they
36 were submitted to the administrative tribunal as a component of
37 an appeal from the adverse action.

38 (3) Individual identifiers, including, but not limited to, names,
39 social security numbers, and hospital numbers, that are not

1 necessary for the prosecution or defense of the adverse action,
2 shall not be disclosed.

3 (4) All records, documents, or other materials containing
4 confidential information protected by this section that have been
5 submitted or otherwise disclosed to the administrative agency or
6 other person as a component of an appeal from an adverse action
7 shall, upon proper motion by the appointing authority to the
8 administrative tribunal, be placed under administrative seal and
9 shall not, thereafter, be subject to disclosure to any person or entity
10 except upon the issuance of an order of a court of competent
11 jurisdiction.

12 (5) For purposes of this subdivision, an adverse action becomes
13 final when the employee fails to answer within the time specified
14 in Section 19575 of the Government Code, or, after filing an
15 answer, withdraws the appeal, or, upon exhaustion of the
16 administrative appeal or of the judicial review remedies as
17 otherwise provided by law.

18 (u) To the person appointed as the developmental services
19 decisionmaker for a minor, dependent, or ward pursuant to Section
20 319, 361, or 726.

21 (v) *To a protection and advocacy agency established pursuant*
22 *to Section 4901 to the extent that the information is incorporated*
23 *within a citation report, plan of correction, unredacted survey*
24 *report, or statement of deficiency prepared by authorized licensing*
25 *personnel or authorized representatives described in subdivision*
26 *(n). This information shall remain confidential and subject to the*
27 *confidentiality requirements of subdivision (f) of Section 4903.*

28 SEC. 2. Section 4903 of the Welfare and Institutions Code is
29 amended to read:

30 4903. (a) The protection and advocacy agency shall have
31 access to the records of any of the following people with
32 disabilities:

33 (1) Any person who is a client of the agency, or any person who
34 has requested assistance from the agency, if that person or the
35 agent designated by that person, or the legal guardian, conservator,
36 or other legal representative of that person, has authorized the
37 protection and advocacy agency to have access to the records and
38 information. If a person with a disability who is able to authorize
39 the protection and advocacy agency to access his or her records
40 expressly denies this access after being informed by the protection

1 and advocacy agency of his or her right to authorize or deny access,
2 the protection and advocacy agency may not have access to that
3 person's records.

4 (2) Any person, including any individual who cannot be located,
5 to whom all of the following conditions apply:

6 (A) The individual, due to his or her mental or physical
7 condition, is unable to authorize the protection and advocacy
8 agency to have access to his or her records.

9 (B) The individual does not have a legal guardian, conservator,
10 or other legal representative, or the individual's representative is
11 a public entity, including the state or one of its political
12 subdivisions.

13 (C) The protection and advocacy agency has received a
14 complaint that the individual has been subject to abuse or neglect,
15 or has determined that probable cause exists to believe that the
16 individual has been subject to abuse or neglect.

17 (3) Any person who is deceased, and for whom the protection
18 and advocacy agency has received a complaint that the individual
19 had been subjected to abuse or neglect, or for whom the agency
20 has determined that probable cause exists to believe that the
21 individual had been subjected to abuse or neglect.

22 (4) Any person who has a legal guardian, conservator, or other
23 legal representative with respect to whom a complaint has been
24 received by the protection and advocacy agency, or with respect
25 to whom the protection and advocacy agency has determined that
26 probable cause exists to believe that the person has been subjected
27 to abuse or neglect, whenever all of the following conditions exist:

28 (A) The representative has been contacted by the protection and
29 advocacy agency upon receipt of the representative's name and
30 address.

31 (B) The protection and advocacy agency has offered assistance
32 to the representatives to resolve the situation.

33 (C) The representative has failed or refused to act on behalf of
34 the person.

35 (b) Individual records that shall be available to the protection
36 and advocacy agency under this section shall include, but not be
37 limited to, all of the following information and records related to
38 the investigation, whether written or in another medium, draft or
39 final, including, but not limited to, handwritten notes, electronic
40 files, photographs, videotapes, or audiotapes:

1 (1) Information and records prepared or received in the course
2 of providing intake, assessment, evaluation, education, training,
3 or other supportive services, including, but not limited to, medical
4 records, financial records, monitoring reports, or other reports,
5 prepared or received by a member of the staff of a facility, program,
6 or service that is providing care, treatment, or services.

7 (2) Reports prepared by an agency charged with investigating
8 reports of incidents of abuse, neglect, injury, or death occurring
9 at the program, facility, or service while the individual with a
10 disability is under the care of a member of the staff of a program,
11 facility, or service, or by or for a program, facility, or service, that
12 describe any or all of the following:

13 (A) Abuse, neglect, injury, or death.

14 (B) The steps taken to investigate the incidents.

15 (C) Reports and records, including, but not limited to, personnel
16 records prepared or maintained by the facility, program, or service
17 in connection with reports of incidents, subject to the following:

18 (i) If a state statute specifies procedures with respect to personnel
19 records, the protection and advocacy agency shall follow those
20 procedures.

21 (ii) Personnel records shall be protected from disclosure in
22 compliance with the fundamental right of privacy established
23 pursuant to Section 1 of Article I of the California Constitution.
24 The custodian of personnel records shall have a right and a duty
25 to resist attempts to allow the unauthorized disclosure of personnel
26 records, and may not waive the privacy rights that are guaranteed
27 pursuant to Section 1 of Article I of the California Constitution.

28 (D) Supporting information that was relied upon in creating a
29 report, including, but not limited to, all information and records
30 that document interviews with persons who were interviewed,
31 physical and documentary evidence that was reviewed, or related
32 investigative findings.

33 (3) Discharge planning records.

34 (c) Information in the possession of a program, facility, or
35 service that must be available to the agency investigating instances
36 of abuse or neglect pursuant to paragraph (1) of subdivision (a) of
37 Section 4902, whether written or in another medium, draft or final,
38 including, but not limited to, handwritten notes, electronic files,
39 photographs, videotapes, audiotapes, or records, shall include, but
40 not be limited to, all of the following:

1 (1) Information in reports prepared by individuals and entities
2 performing certification or licensure reviews, or by professional
3 accreditation organizations, as well as related assessments prepared
4 for a program, facility, or service by its staff, contractors, or related
5 entities, subject to any other provision of state law protecting
6 records produced by medical care evaluation or peer review
7 committees.

8 (2) Information in professional, performance, building, or other
9 safety standards, or demographic and statistical information,
10 relating to the facility.

11 (d) The authority of the protection and advocacy agency to have
12 access to records does not supersede any prohibition on discovery
13 specified in Sections 1157 and 1157.6 of the Evidence Code, nor
14 does it supersede any prohibition on disclosure subject to the
15 physician-patient privilege or the psychotherapist-patient privilege.

16 (e) (1) The protection and advocacy agency shall have access
17 to records of individuals described in paragraph (1) of subdivision
18 (a) of Section 4902 and in subdivision (a), and other records that
19 are relevant to conducting an investigation, under the circumstances
20 described in those subdivisions, not later than three business days
21 after the agency makes a written request for the records involved.

22 (2) The protection and advocacy agency shall have immediate
23 access to the records, not later than 24 hours after the agency makes
24 a request, without consent from another party, in a situation in
25 which treatment, services, supports, or other assistance is provided
26 to an individual with a disability, if the agency determines there
27 is probable cause to believe that the health or safety of the
28 individual is in serious and immediate jeopardy, or in a case of
29 death of an individual with a disability.

30 (f) Confidential information kept or obtained by the protection
31 and advocacy agency shall remain confidential and may not be
32 subject to disclosure. This subdivision shall not, however, prevent
33 the protection and advocacy agency from doing any of the
34 following:

35 (1) Sharing the information with the individual client who is
36 the subject of the record or report or other document, or with his
37 or her legally authorized representative, subject to any limitation
38 on disclosure to recipients of mental health services as provided
39 in subsection (b) of Section 10806 of Title 42 of the United States
40 Code.

1 (2) Issuing a public report of the results of an investigation that
2 maintains the confidentiality of individual service recipients.

3 (3) Reporting the results of an investigation to responsible
4 investigative or enforcement agencies should an investigation
5 reveal information concerning the facility, its staff, or employees
6 warranting possible sanctions or corrective action. This information
7 may be reported to agencies that are responsible for facility
8 licensing or accreditation, employee discipline, employee licensing
9 or certification suspension or revocation, or criminal prosecution.

10 (4) Pursuing alternative remedies, including the initiation of
11 legal action.

12 (5) Reporting suspected elder or dependent adult abuse pursuant
13 to the Elder Abuse and Dependent Adult Civil Protection Act
14 (Chapter 11 (commencing with Section 15600) of Part 3 of
15 Division 9).

16 (g) The protection and advocacy agency shall inform and train
17 employees as appropriate regarding the confidentiality of client
18 records.

19 *(h) The authority provided pursuant to subdivision (b) shall*
20 *include access to an unredacted citation, licensing, or survey report*
21 *prepared by a department responsible for issuing a license or*
22 *certificate to a program, facility, or service serving an individual*
23 *with a disability.*

24 SEC. 3. Section 5328.15 of the Welfare and Institutions Code
25 is amended to read:

26 5328.15. All information and records obtained in the course
27 of providing services under Division 5 (commencing with Section
28 5000), Division 6 (commencing with Section 6000), or Division
29 7 (commencing with Section 7000), to either voluntary or
30 involuntary recipients of services shall be confidential. Information
31 and records may be disclosed, however, notwithstanding any other
32 provision of law, as follows:

33 (a) To authorized licensing personnel who are employed by, or
34 who are authorized representatives of, the State Department of
35 ~~Public Health Services~~, and who are licensed or registered health
36 professionals, and to authorized legal staff or special investigators
37 who are peace officers who are employed by, or who are authorized
38 representatives of the State Department of Social Services, as
39 necessary to the performance of their duties to inspect, license,
40 and investigate health facilities and community care facilities and

1 to ensure that the standards of care and services provided in such
2 facilities are adequate and appropriate and to ascertain compliance
3 with the rules and regulations to which the facility is subject. The
4 confidential information shall remain confidential except for
5 purposes of inspection, licensing, or investigation pursuant to
6 Chapter 2 (commencing with Section 1250) of, and Chapter 3
7 (commencing with Section 1500) of, Division 2 of the Health and
8 Safety Code, or a criminal, civil, or administrative proceeding in
9 relation thereto. The confidential information may be used by the
10 State Department of *Public Health Services* or the State Department
11 of Social Services in a criminal, civil, or administrative proceeding.
12 The confidential information shall be available only to the judge
13 or hearing officer and to the parties to the case. Names which are
14 confidential shall be listed in attachments separate to the general
15 pleadings. The confidential information shall be sealed after the
16 conclusion of the criminal, civil, or administrative hearings, and
17 shall not subsequently be released except in accordance with this
18 subdivision. If the confidential information does not result in a
19 criminal, civil, or administrative proceeding, it shall be sealed after
20 the State Department of *Public Health Services* or the State
21 Department of Social Services decides that no further action will
22 be taken in the matter of suspected licensing violations. Except as
23 otherwise provided in this subdivision, confidential information
24 in the possession of the State Department of *Public Health Services*
25 or the State Department of Social Services shall not contain the
26 name of the patient.

27 (b) To any board which licenses and certifies professionals in
28 the fields of mental health pursuant to state law, when the Director
29 of Mental Health has reasonable cause to believe that there has
30 occurred a violation of any provision of law subject to the
31 jurisdiction of that board and the records are relevant to the
32 violation. This information shall be sealed after a decision is
33 reached in the matter of the suspected violation, and shall not
34 subsequently be released except in accordance with this
35 subdivision. Confidential information in the possession of the
36 board shall not contain the name of the patient.

37 (c) *To a protection and advocacy agency established pursuant*
38 *to Section 4901 to the extent that the information is incorporated*
39 *within a citation report, plan of correction, unredacted survey*
40 *report, or statement of deficiency prepared by authorized licensing*

- 1 *personnel or authorized representatives described in subdivision*
- 2 *(a). This information shall remain confidential and subject to the*
- 3 *confidentiality requirements of subdivision (f) of Section 4903.*